

## United States District Court

EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

CLAYTON FOUNTAIN

V.

DIVERSIFIED CONSULTANTS, INC.

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§

CASE NO. 4:13cv132  
(Judge Clark/Judge Mazzant)

### **REPORT AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE**

This case has been pending on the Court's docket since March 12, 2013, when it was removed to the Eastern District of Texas, Sherman Division, from Small Claims Court, Precinct Three, Place Two, Collin County, Texas. On April 5, 2013, the Court entered its Order and Advisory (Dkt. #5). The May 2, 2013 docket entry in this case indicates that the Order mailed to Plaintiff has been returned as "Undeliverable - 'Unclaimed.' Mail sent to Clayton Fountain - Order 5."

Local Rule CV-11 (e) requires that "A pro se litigant is responsible for keeping the clerk advised in writing of the current address."

A district court may dismiss an action for failure to prosecute or to comply with an order of the court. *See generally McCullough v. Lynaugh*, 835 F.2d 1126 (5th Cir. 1988); *Magnuson v. Electronic Data Systems Corp.*, 252 F.3d 436, 2001 WL 360841 (5th Cir. 2001); *Beard v. Experian Information Solutions Inc.*, 214 F. App'x 459 (5th Cir. 2007); Fed. R. Civ. P. 41(b). Plaintiff has failed to prosecute this action.

### **RECOMMENDATION**

It is therefore recommended that Plaintiff's case be dismissed for failure to prosecute pursuant to Fed. R. Civ. P. 41(b).

Within fourteen (14) days after receipt of the magistrate judge's report, any party may serve and file written objections to the findings and recommendations of the magistrate judge. 28 U.S.C.

§ 636(b)(1)(C).

Failure to file written objections to the proposed findings and recommendations contained in this report within fourteen days after service shall bar an aggrieved party from *de novo* review by the district court of the proposed findings and recommendations and from appellate review of factual findings accepted or adopted by the district court except on grounds of plain error or manifest injustice. *Thomas v. Arn*, 474 U.S. 140, 148 (1985); *Rodriguez v. Bowen*, 857 F.2d 275, 276-77 (5th Cir. 1988).

**SIGNED this 5th day of September, 2013.**

  
AMOS L. MAZZANT  
UNITED STATES MAGISTRATE JUDGE